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FAY SHARPE LLP				
1100 SUPERIOR AVENUE, SEVENTH FLOOR				
CLEVELAND, OH 44114				
EXAMINER				
PATEL, DHIRUBHAIR				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/535,514

Applicant(s)

CONRAD, NEVILLE SIMEON

Examiner

DHIRU R. PATEL

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18, 22 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a generally horizontal portion, a generally vertical portion recited in claim 24 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. The examiner suggests showing a reference for a generally horizontal portion, a generally vertical portion.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The amendment filed 3/9/07 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

In claim 24 lines 1-9, "a receptaclethe associated electrical plug appliance."

In claim 26 lines 1-4, "a receptacle the stand member ".

Applicant must refer to the specification by page and lines number in the original specification and to the drawing, if any, by reference characters to provide support for claim 24 lines 1-9 and claim 26 lines 1-4.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

3. Claims 24 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a one piece substantially rigid stand member, the specification does not reasonably provide enablement for the rigid stand member including a generally horizontal portion, a generally vertical portion and a flexible cable retaining member attached to one of the generally horizontal portion **or** the generally vertical portion of the stand member. The **original** specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or assemble the invention commensurate in scope with the claim. The original specification doesn't reasonably disclose the claimed subject matter of claim 24, and

therefore the subject matter of claim 24 is not enabled by the original disclosure of the invention. **The applicant is required to cancel the claim or provide a reasonable explanation of why they feel the specification supports the subject matter as disclosed in claim 24. Applicant must refer to the specification by page and lines number in the original specification and to the drawing, if any, by reference characters to provide support for claim 24.**

The examiner also notes that MPEP 2163.05 also states:

The failure to meet the written description requirement of 35 U.S.C. 112, first paragraph, commonly arises when the claims are changed after filing to either broaden or narrow the breadth of the claim limitations, or to alter a numerical range limitation or to use claim language which is not synonymous with the terminology used in the original disclosure to comply with the written description requirement of 35 U.S.C. 112, para. 1, or to be entitled to an earlier priority date or filing date under 35 U.S.C. 119, 120, or 365(c), each claim limitation must be expressly, implicitly, or inherently supported in the originally filed disclosure. Please note that inventor is responsible for providing element number for each claimed invention as well as for providing page number, figure number, element number, and column with lines number **in the original specification** for claim 24 to verify and in compliance with statute 35 USC 112 first paragraph defined in MPEP and Please note that the claim 24 must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claim 24

must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description, see MPEP 608.01 (d)(1).

4. Claim 29 is rejected under 35 U.S.C. § 102(b) as being anticipated by Gresham et al (6,701,677).

Gresham et al disclose:

Regarding claim 29, a receptacle for an associated electrical cable 34 (see fig 3) comprising: a substantially rigid stand member 20 (see fig 2 and column 1 lines 4-8 and column 2 lines 25-30); a flexible cable retaining member 44,45 mounted to the stand member (see figs 2-3) , said cable retaining member comprising a net 28 (pouch, see fig 2); and the stand and the cable retaining member cooperate to resiliently retain the associate cable between them (see figs 3-4 and column 3 lines 62-65 and column 4 lines 3-5).

Allowable Subject Matter

5. Claims 24-28 would be allowable if rewritten to overcome the rejection(s) under the specification objection, the drawing objection and the 35 USC 112 first paragraphs, set forth in this Office action, and search in EAST.EPO, JPO, DERWENT, PG PUB AND US PAT.

6. Claims 1-18 and 22 are allowed.

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The following is a statement of reasons for the indication of allowable subject matter: The primary reasons for the indication of the allowability of claims 1-18, 22 and 24-28 are the inclusion therein, in combination as currently claimed, of the limitation of the receptacle comprising: the cable retaining member is perforated such that more than half of a surface area of the cable retaining member comprises apertures to allow for a flow of air past the associated cable (for claims 1-18 and 22) and a flexible cable retaining member attached to one of the generally horizontal portion or the generally vertically portion of the stand member. (for claims 24-28) .

The previously listed limitation is neither disclosed nor taught by the prior art of record, alone or in combination.

Conclusion

7. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Response to Arguments

8. Applicant's arguments filed 3/19/2008 have been fully considered but they are not persuasive. *Specifically, the applicant argues the following:

A) The Amendment filed 3/9/07 does not introduce new matter.

With respect to argument A, the examiner respectfully traverses because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

In claim 24 lines 3-4, " a one piece substantially rigid stand member including a generally horizontal portion, a generally vertical portion ". it is noted that the specification does not provide element numbers for a generally horizontal portion and a generally vertical portion.

In claim 24 lines 5-6, "a flexible cable retaining member attached to one of the generally horizontal portion **or** the generally vertically portion of the stand member".

Further, it is noted that the original specification disclosed the following: a rigid stand member 1, a base 2, a resilient, flexible cable –retaining member 3 and the resilient strips 9 and 10 on the base 2, see pages 3-4 and no elements numbers for a generally horizontal portion and a generally vertical portion. with respect to the Amendment filed 3/9/07 does not introduce new matter, The examiner respectively disagreed and the March 9, 2007 amendment added new matter is stand rejected according to the current office action.

B) Claim 29 is not anticipated by Gresham.

With respect to argument B, the examiner respectfully traverses. Firstly, it must be stated that the examiner is required to give the claims the broadest reasonable interpretation, when examining the claims and must not read the specification into the claim during examination. Specifically, MPEP 2111 states:

During patent examination, the pending claims must be "given *their < broadest reasonable interpretation consistent with the specification." > In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). < Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541,550- 51 (CCPA 1969). And

specifically, the claims state that A receptacle "comprising"... which is open-ended.

The MPEP discloses the following:

2111.03 [R-3] Transitional Phrases.

The transitional phrases "comprising", "consisting essentially of" and "consisting of" define the scope of a claim with respect to what unrecited additional components or steps, if any, are excluded from the scope of the claim. The transitional term "comprising", which is synonymous with "including," "containing," or "characterized by," is inclusive or open-ended and does not exclude additional, unrecited elements or method steps. See, e.g., > Mars Inc. v. H.J. Heinz Co., 377 F.3d 1369, 1376, 71 USPQ2d 1837, 1843 (Fed. Cir. 2004) ("like the term comprising," the terms containing'

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and mixture' are open-ended."). < *Invitrogen Corp. v. Biocrest Mfg., L.P.*, 327 F.3d 1364, 1368, 66 USPQ2d 1631, 1634 (Fed. Cir. 2003) ("The transition comprising' in a method claim indicates that the claim is open-ended and allows for additional steps."); *Genentech, Inc. v. Chiron Corp.*, 112 F.3d 495, 501, 42 USPQ2d 1608, 1613 (Fed. Cir. 1997) ("Comprising" is a term of art used in claim language which means that the named elements are essential, but other elements may be added and still form a construct within the scope of the claim.); *Moleculon Research Corp. v. CBS, Inc.*, 793 F.2d 1261, 229 USPQ 805 (Fed. Cir. 1986); *In re Baxter*, 656 F.2d 679, 686, 210 USPQ 795, 803 (CCPA 1981); *Ex parte Davis*, 80 USPQ 448, 450 (Bd. App. 1948) ("comprising" leaves "the claim open for the inclusion of unspecified ingredients even in major amounts"). > *In Gillette Co. v. Energizer Holdings Inc.*, 405 F.3d 1367, 1371-73, 74 USPQ2d 1586, 1589-91 (Fed. Cir. 2005), the court held that a claim to "a safety razor blade unit comprising a guard, a cap, and a group of first, second, and third blades" encompasses razors with more than three blades because the transitional phrase "comprising" in the preamble and the phrase "group of" are presumptively open-ended. "The word comprising' transitioning from the preamble to the body signals that the entire claim is presumptively open-ended." *Id.* In contrast, the court noted the phrase "group consisting of" is a closed term, which is often used in claim drafting to signal a "Markush group" that is by its nature closed. *Id.* The court also emphasized that • reference to "first," "second," and "third" blades in the claim was not used to show a serial or numerical limitation but instead was used to distinguish or identify the various members of the group.

In light of the above instruction, the applicant's claim doesn't preclude the Gresham et al reference because clearly Gresham et al teach a stand member, a flexible cable retaining member and a net required by the claim. Given the most reasonable broadest interpretation, as detailed above, Gresham et al disclose a receptacle for an associated electrical cable 34 (see fig 3) comprising: a substantially rigid stand member 20 (see fig 2 and column 1 lines 4-8 and column 2 lines 25-30); a flexible cable retaining member 44,45 mounted to the stand member (see figs 2-3) , said cable retaining member comprising a net 28 (pouch, see fig 2); and the stand and the cable retaining member cooperate to resiliently retain the associate cable between them (see figs 3-4 and column 3 lines 62-65 and column 4 lines 3-5).

In light of the above statements, the examiner respectfully states that the 35 USC rejection is proper and just.

C) Furthermore, unlike the present invention, the pouch of Gresham is not intended to provide any apertures for the purposes of heat dissipation of the cables as taught by the present invention.

With respect to argument C, the examiner respectfully traverses because claim 29 does not claim any apertures for the purposes of heat dissipation of the cables. Examiner points out that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

D) the pouch 28 of Gresham is not formed so as to resiliently retain the wires 34 between itself and the partition 20.

With respect to argument C, the examiner respectfully traverses because the pouch 28 of Gresham is formed so as to resiliently retain the wires 34 between itself and the partition 20 (see column 3 lines 65-67 and column 4 lines 1-3).

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DHIRU R. PATEL whose telephone number is 571-272-1983. The examiner can normally be reached on M-TH, 6:30 TO 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DHIRU R PATEL/

Primary Examiner, Art Unit 2831